



# UNITED STATES PATENT AND TRADEMARK OFFICE

14.4.

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,582	08/29/2001	Tsuguo Nanjo	WEN-007	5007

23353 7590 05/06/2003

RADER FISHMAN & GRAUER PLLC  
LION BUILDING  
1233 20TH STREET N.W., SUITE 501  
WASHINGTON, DC 20036

EXAMINER
----------

BLACKMAN, ROCHELLE ANN J

ART UNIT	PAPER NUMBER
----------	--------------

2851

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/940,582

Applicant(s)

NANJYO, TSUGUO

Examiner

Rochelle Blackman

Art Unit

2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Objections***

Claims 1 are objected to because of the following informalities: In section (f), line 1 "fuiding" should be - -guiding- -. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishihara, JP Patent No. 09-173298.

Nishihara discloses a "fundus camera"(see FIGS. 1-13) comprising: an "observation optical system"(see FIG. 1) having an "objective lens"(see 1 of FIG. 1) and a "photographing element"(see 6 of FIG. 1); a "monitor"(see 27 of FIGS. 1 and 3-6); a "fixation-target presenting optical system" that comprises a "liquid crystal display with a light source behind" presenting "a fixation target" and has "a point light source"(see 19 and 24 of FIG. 1 and see FIG. 2 and 8); a "fixation-target moving unit by which a position to present the fixation target is moved to a desired position" that includes a "light source moving unit"(see FIG. 2); a "screen-control unit"(see 20 of FIGS. 1 and 3); a "first display-control unit by which a fixation target image formed optically or

electrically to indicate the position of the fixation target on the fundus is displayed on the fundus image displayed on the monitor”(see paragraph [0015]); a “second display-control unit by which a guide target for guiding movement of the fixation-target is displayed graphically in a predetermined position on the fundus image displayed on the monitor”(see paragraph [0016]); a “sensor”(see 32 of FIG. 7); a “mode-selecting unit”(see 25 of FIGS. 1 and 3); and a “memory”(see 28 of FIG. 3 and paragraph [0019]). Features and functions of the claimed elements are similarly met by the features and functions of the above mentioned elements.

2. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsumoto, JP Patent No. 11-313800.

Matsumoto discloses a “fundus camera”(see FIGS. 1-10) comprising: an “observation optical system”(see FIG. 2) having an “objective lens”(see 11 of FIG. 2) and a “photographing element”(see 9 of FIGS. 1, 2 and 10); a “monitor”(see 6 of FIGS. 1, 2, and 5-10); a “fixation-target presenting optical system” that comprises a “liquid crystal display with a light source behind” presenting “a fixation target” and has “a point light source”(see paragraph [0009] and FIGS. 2 and 10); a “fixation-target moving unit by which a position to present the fixation target is moved to a desired position” that includes a “light source moving unit”(see 7, 8 and 30 of FIGS. 1, 2, and 10); a “first display-control unit by which a fixation target image formed optically or electrically to indicate the position of the fixation target on the fundus is displayed on the fundus image displayed on the monitor”(see paragraph [0012]); a “second display-control unit”(see paragraphs [0013]-[0024] with FIGS. 5-9); and a “screen control unit”, a

“sensor”, a “mode-selecting unit”, and a “memory”(see 25-27 of FIGS. 2 and 10 ).

Features and functions of the claimed elements are similarly met by the features and functions of the above mentioned elements.

### ***Response to Arguments***

Applicant's arguments filed February, 14, 2003 have been fully considered and they are persuasive with respect to the rejection of claims 1 and 6-8 under 35 U.S.C. 102(b) as anticipated by Nanjo, U.S. Patent No. 5,668,621 and claims 1-6 and 8-12 under 35 U.S.C. 102(b) anticipated by Okashita et al., JP Patent No. 2000-189387, but they are not persuasive with respect to rejections of claims 1-12 under 35 U.S.C. 102(b) as anticipated by Nishihara (Yutaka), JP Patent No. 09-173298 and as anticipated by Matsumoto (Kazuhiro), JP Patent No. 11-313800.

Applicant argues Nishihara (Yutaka), Matsumoto (Kazuhiro), and Okashita on pg. 11, “fail, however, to disclose, teach, or suggest at least a fixation target moving unit by which a position to present the fixation target is moved to a desired position, and a first display control unit by which a fixation target image formed optically or electrically to indicate the position of the fixation target on the fundus is displayed on the fundus image displayed on the monitor, respectively”.

Nishihara (Yutaka) discloses an operating lever section 26 with a fixation lamp 19 and fixation control section 24 that is operated to change positions of the image of the fixation lamp on the fundus image and the fundus image with the image of the fixation lamp is displayed on monitor 17, which still reads on the “claimed” invention.

Matsumoto (Kazuhiro) discloses operation means 7 and vertical-movement switch 8 that are operated to move alignment target images AL' and AR' to overlap or match up with alignment reference marks ML and MR and is displayed on monitor 6 in Figs. 5-10, which still reads on the "claimed" invention.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rochelle Blackman whose telephone number is (703) 308-2879. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell Adams can be reached on (703) 308-2847. The fax phone

Application/Control Number: 09/940,582


Page 6

Art Unit: 2851

numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

RB  
May 5, 2003

  
RUSSELL ADAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800